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Summary of Legislation

H B 34 Insurance Reports, Tables, and Examination Amendments Representative Jim Dunnigan

Background

- Market regulation surveillance (31A-2-202. Reports and replies; lines 68 and 84; 31A-2-203, lines 110, 142, 192-195, 202-204, and 211-213; 31A-2-204. Conducting examinations, line 234)
 - The NAIC's *Market Conduct Surveillance Model Law* was developed in conjunction with NCOIL in 2004. The law was promulgated to bring uniformity to the market regulation of insurance licensees (insurers, individuals, agencies). The national insurance trade associations support this model law.
 - The Department has studied the model law since its adoption by the NAIC. The Department's study has revealed that a few sections of current Utah law need to be amended to implement the model law. The proposed legislation adopts into statute those portions of the model law that are necessary to allow implementation of the model law.
- Deletion of unnecessary reports from the Insurance Code (31A-2-212. Miscellaneous duties; lines 316-318; and 31A-37-501. Reports to the commissioner; lines 416-418)
 - 31A-2-212 (3), Average Expectancy of Life, Values of Annuities and Life and Term Estates Tables. The Insurance Department has never obtained, nor published, these tables because the tables deal with expectancies rather than mortality. The subsection is misleading to the public because it gives the impression the Insurance Department publishes the required tables and values.
 - 31A-37-501. In the 2006 legislative session, captive insurance company premium tax was replaced with a licensing fee. This report was designed to provide supporting detail for the premium tax due and is therefore no longer necessary.
- Change to code section because of renumbering of another amended code section (31A-27-315, line 358; 59-9-102, line 439). These two subsections had to be changed to reflect the changes made in the other subsection in this bill.

- Other changes to the code sections in this bill are non-substantive formatting changes by Legislative Research.

Effects of Legislation

- Market regulation surveillance (31A-2-202)
 - Lines 65-68. Clarifies that the commissioner shall use annual statement forms for both financial regulation and market regulation.
 - Line 84. Adds “other persons” to those from whom the Commissioner may request information. This allows market regulation to apply to all licensees and not just to insurers and their affiliates.
 - Line 110. Adds “third party models or products” used by examinees to those the Commissioner has authority to examine. Credit scoring entities or products and claims reporting entities or products are examples of these type entities or products. The Department has asserted its right to examine third party models or products used by an insurer being examined without challenge from the examinee. This change makes clear that third party models and products used by an examinee are subject to examination.
 - Line 142. Adds “other licensees” to allow the Commissioner to perform market regulation surveillance activities to all Department licensees.
 - Lines 192-195. Allows the Commissioner to use records from the market side of a licensee’s insurance business, and to use reports from independent auditors and self-certification entities in the Commissioner’s determination of the scope of an examination. Self-certification entities include Insurance Marketplace Standards Association (IMSA) used by life insurers and National Committee for Quality Assurance (NCQA) used by health insurers.
 - Lines 202-204. Direct the Commissioner to maintain a market regulation surveillance system and clarifies that the financial and market regulation surveillance systems include financial and market analysis.
 - Lines 211-213. Provide rulemaking authority for the financial and market regulation surveillance systems maintained by the Commissioner.
 - Provides uniformity with other states’ market regulation activities.
- 31A-2-212, lines 316-318; and 31A-37-501, lines 416-418. Deletes unnecessary tables and reports from the Insurance Code.
- 31A-27-315, line 358; and 59-9-102, line 439. Corrects incorrect code citations.

Benefits of Legislation

- Market regulation surveillance.

- Allows Utah to establish a market regulation surveillance system separate from the financial regulation surveillance system already in place.
- Allows Utah to be uniform with other states' market regulation activities, thereby assuring Utah non-resident and resident licensees that they will be treated similarly.
- Deletes unnecessary reports from the Insurance Code.
- Corrects incorrect code citations.

Support for Legislation

- National trade associations (insurer and producer) support the adoption of the NAIC/NCOIL Market Conduct Surveillance Model Law
- Utah Insurance Department